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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10718 OF 2023

Bhawika Manoj Ratnani and Others

PETITIONERS

VERSUS

Raver Municipal Council, Raver Through
Chief Officer

RESPONDENT

.....
Mr. Siddhartha B. Yawalkar, Advocate for the petitioners
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th AUGUST, 2023

ORDER :

1. The petitioners are aggrieved by the order dated 27th March, 2023 passed by the learned Civil Judge, Junior Division, Raver below Exhibit-21 in Regular Civil Suit No. 101 of 2022.
2. The petitioners – plaintiffs filed the suit for declaration thereby challenging notice dated 23rd September, 2022, issued by the respondent – defendant – Raver Municipal Council. The suit is filed on 13th October, 2022 and on the same day, suit summons was issued. In response to the same, the defendant – Municipal Council appeared and requested for time to file written statement. The respondent failed to file written statement within stipulated time of 90 days. Due to expiry of 90 days period, the

defendant filed application Exhibit-21 contending that there is delay on their part in filing written statement and it is necessary to grant them permission to file written statement. They have contended that since the documents could not be procured in time, they could not file the written statement within 90 days. Hence, they sought permission to file written statement by condoning delay. The application was opposed by the petitioners, however, the Trial Court allowed the same. The petitioners are aggrieved by the said order.

3. Heard learned advocate for the petitioners. Perused the memo of writ petition, annexures and the impugned order.

4. Learned advocate for the petitioners submits that without there being sufficient reason assigned for condonation of delay, the Trial Court has erred in allowing the application.

5. The respondent – Municipal Council has belatedly approached the Trial Court for seeking permission to file written statement, by giving the reason that they could not procure documents for filing written statement in time. This reason is accepted by the Trial Court. So as to resolve the dispute between the parties and in order to decide fact in issue finally on merits, the written statement of the respondent is necessary and the

Trial Court has rightly permitted the respondent to file written statement on record.

6. Since by allowing the application, the Trial Court has granted fair opportunity to the respondent, to contest the suit on merits and has rightly exercised discretion in favour of the respondent, the impugned order is not liable to be interfered with, in extraordinary writ jurisdiction. There is no illegality or perversity in the impugned order. Writ petition being devoid of merit, is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE